OPEN Doors

A Publication of the Residential Tenancies Branch *Issue 3, January, 2005*

Changes at the Branch

An interview with the director, Roger Barsy.

"There have been some changes at the Residential Tenancies Branch. What's going on?"

RB: "The branch is restructuring to provide an efficient one-stop shop for our clients. We're working to increase our efficiency and moving to a new integrated electronic system that lets staff provide services immediately. For example, if a landlord or tenant comes into the branch with a complaint, the person who takes the complaint will be able to start a resolution process immediately. Sometimes one phone call by our staff can result in a solution."

"Why are you doing this?"

RB: " We have a regular and very active consultation process with our clients. They've asked for more immediate service and we are responding. It's something we have been working on for some time. The new system will provide on-the-spot service, and clients will see immediate action on their file. If the officer cannot resolve the issue immediately, clients will know exactly what the next steps are and who will be doing them."

"What's happening right now?"

RB: "Staff is being trained on the new computer system and applying some of the new procedures. For example, if you come into the branch with a problem, staff will immediately offer to call the other party to see if it can be fixed. We're already getting results earlier. Recently a young mother was concerned about being evicted from her apartment. The officer called the landlord right away and a solution was found so that the woman didn't have to move. This provided a great deal of satisfaction for everyone. The tenant was relieved and the landlord was content."

"What will we see over the next while?"

RB: "All staff is working hard to get the new system running smoothly as quickly as possible, but something as significant as this takes time. There's the implementation of a new system and then training and working out some of the details. Everyone is very committed to the project because they know how good the results will be, but it will take a number of months before things are working the way we would like them to. There will be glitches. We'll work hard to fix them and get the entire system working as quickly as we can."

"What will clients see when the system is working?"

"Overall, we expect to be able to deliver much faster service. Right now a claim decision takes between 21 and 30 days and sometimes longer. We expect this to take as little as 10 days in the future. Overall, clients can expect more direct service, more immediate service and faster service. We will be able to scan material into evidence immediately, for example, and track the progress of every file so that details are immediately available for everyone concerned."

"It sounds like the work will be well worth it."

RB: "Yes. It's a steep learning curve, and it will take a while to work through the complexities of the system. We're 'under construction' so to speak, and that means things will be less than ideal for a while. A more efficient system will mean real benefits to our clients. Staff is committed to changing our structure to provide more immediate, more efficient client services. We're looking forward to the results. We just ask our clients to bear with us as we work out some of the details."

"Thank you Mr. Barsy."

RB: "Thank you."

Condition reports are useful for landlords and tenants

A condition report is a written, detailed description of the condition of a rental unit when the tenant moves in and out. It is not required by law, unless either the landlord or tenant asks that one be done. A condition report can help protect the interests of both the landlord and the tenant. A landlord or tenant may use a condition report as evidence to support or respond to:

- a claim against a security deposit
- a claim for compensation for damage or cleaning
- an application for an Order of Possession

A landlord or tenant can ask that a condition report be done when tenants move in, and again when they move out. A condition report should also be done when a unit is sublet or assigned.

At the beginning of a tenancy, both the landlord and tenant should carefully inspect the premises together. Any damages, like scratches or burns, should be written down on the form. The landlord and tenant should sign and date the condition report and each keep a copy.

When a tenant moves out, the landlord and tenant should check the unit together. Ideally, both should sign the condition report at the end of the tenancy. However, occasionally a tenant leaves without signing the report. If this happens, the landlord should still complete the report. The landlord may want to ask another tenant or neighbour to witness the condition of the unit. Damages that were not there when the tenant moved in should be listed on the condition report. The landlord and tenant should date and sign this last report and each should keep a copy. Either one can use a condition report to make an agreement on the refund of a security deposit.

The branch considers condition reports when deciding claims or other matters, and generally accepts condition reports as evidence as long as:

- The landlord gave the tenant a reasonable chance to complete a report. (even if it remains unsigned)
- The report isn't changed after the landlord and tenant sign it.

The branch provides sample copies of condition reports; forms are also available at some stationery stores. Some landlords choose to create their own condition reports.

Both landlords and tenants are responsible for routine maintenance. Tenants who live in a single-family dwelling should do routine yard work, such as shovelling snow, and those who live in townhouses, duplexes or triplexes should maintain the part of the yard they exclusively use.

While landlords in multi-level complexes are generally responsible for cleaning the outsides of windows, tenants are generally responsible for cleaning the inside of windows.

A landlord does not routinely clean carpets and drapes during a tenancy unless there are unusual conditions such as a water leak. If a tenant wants to clean drapery or carpets, the landlord should be consulted to see if there are special instructions.

More information about general maintenance is available at www.residentialtenancies.mb.ca

Hearings are an important tool for clients

Branch hearings are public events used to consider important claims such as an order of possession or a claim for compensation.

"When landlords or tenants cannot settle their differences on their own, the branch provides a meeting in a public forum known as a hearing, in which parties can state their claims," says Roger Barsy, director of the Residential Tenancies Branch.

A hearing officer takes information and evidence from the landlord, the tenant and any witnesses. If the claim is for compensation, the party must show that a financial loss took place during the tenancy and the other party caused that loss. The amount of the loss must be proven. As well, the landlord or tenant must show they tried to keep the loss to a minimum.

If there is an application for an order of possession, landlords must prove they gave a valid notice of termination and the tenant failed to meet an obligation under a tenancy agreement.

The branch can award compensation for a number of situations such as loss of rental income, or damage to personal belongings. It does not have the authority to award compensation for personal injury or death, pain and suffering or mental anguish, legal fees, time required to collect rent, or wages lost while attending a hearing.

A tenant's right to privacy

Landlords are usually required to give tenants notice before they go into a rental unit. Landlords must give tenants at least 24 hours but not more than two weeks' notice.

The notice must:

- be in writing
- say why the landlord needs to go in
- give the date and time of the visit

If the time and date are not convenient for a tenant, he or she can tell the landlord and must give the landlord a chance to go in on another day or time.

After giving proper notice, a landlord may enter a rental unit to:

- do repairs
- inspect for damage or do a condition report
- show the premises to potential buyers
- allow an inspection for mortgage or insurance purposes

A landlord may enter a rental unit without notice:

- if there is an emergency
- if the tenant agrees at the time
- to show the premises to potential renters after a tenant has given or been given notice that he or she is moving out
- to inspect the premises on the day the tenant is moving

Mediation can help solve disputes

When landlords and tenants disagree, mediation can help resolve the dispute. The Residential Tenancies Branch provides confidential mediation services to help find solutions and resolution.

"Disputing parties often find their own solutions," says Roger Barsy, director of the branch. "Unless the dispute is about rent increases, we can provide mediation services that help bring the parties to the table to focus on finding a solution that works for everyone."

If all parties agree to mediation, the branch will provide an officer to oversee the discussions, identify common ground, and help identify possible solutions. Mediation is flexible and can take place in meetings and in individual or conference phone calls.

"Mediation officers act as a 'go between' for the landlord and tenant and provide assistance to both parties," says Barsy. "They don't take sides, offer legal advice, or impose solutions, but instead bring people together to help them find a remedy."

When mediation is successful, the officer will prepare a binding agreement outlining its terms and the consequences of not keeping the agreement.

If mediation isn't successful, the branch may make a decision or issue an order.

Residential Tenancies Branch provides mediation services.

Residential tenancies orders system helps both tenants and landlords

Orders issued by the branch or the Residential Tenancies Commission are public record. The residential tenancies orders system is a list of final orders (excluding rent regulation orders) issued to tenants and landlords by the branch or the commission. It lists orders on rental housing that have been issued since 1999.

The residential tenancies orders system can be used by individuals or companies in several ways:

- Clients can search a landlord or tenant name to see if the branch or commission has issued any orders against them.
- The client can view any orders for information that helps them make informed decisions before making a rental decision.
- Clients can locate and view a specific order if they know the order number.
- The system allows clients to search for specific types of orders such as orders of possession, repair, security deposit or claim, or all orders issued during a specific time period.
- Clients can also search for an order based on a specific topic, such as claims for carpet cleaning.

Clients can subscribe for $250 a year and access the system on the branch's website. Applications for subscription are available @ www.residentialtenancies.mb.ca or at branch offices. Clients can also search the system at the Winnipeg branch's public access work station at a charge of $5 for 30 minutes of search time, plus 15 cents per page for printed pages. Outside Winnipeg, clients can complete a request for orders system search form. Branch staff will do the search at $5 per request, plus 15 cents per printed page.

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Landlords entitled to late payment fees

Tenants must pay the landlord the full rent on the day the rent is due. If the rent is not paid on time, the landlord may charge the tenant a late payment fee.

Landlords must tell tenants — in writing — they will charge a late payment fee if the tenants don't pay rent on time. This information can be included:

- in a tenancy agreement
- in house rules
- in a separate notice given directly to the tenants

A general notice in the lobby or entrance way about late fees is not considered acceptable notice. Once a tenant has been advised about the fee, a landlord is entitled to charge it.

The rate for late payment fees is set in the Residential Tenancies Regulation. A landlord cannot charge more than the regulation allows. A landlord may charge a late payment fee of:

- up to $5 for the day the rent was due
- up to $1 for each day after the due date to a maximum of $65

If a tenant does not pay a late payment fee, the landlord may:

- deduct the accumulated fee as part of their claim against the security deposit at the end of the tenancy or
- include the fee on a claim for compensation or application for an order of possession filed with the branch

A landlord can't terminate a tenancy for non-payment of late payment fees alone.

Need information?

ONLINE
www.residentialtenancies.mb.ca

OFFLINE
in person or by phone

Visit your branch office Monday to Friday from 8:30 a.m. to 4:30 p.m.

Winnipeg at 302–254 Edmonton Street
or call 945-2476

Brandon at 157–340 9th Street
or call 726-6230

Thompson at 113–[illegible] Elizabeth Drive
or call 667-6496

Toll-free 1-800-7[illegible]9403

Manitoba

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